



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

Phone (916) 322-8660 • Fax (916) 322-0886

March 4, 2010

Mr. Rocky Chavez

REDACTED

✓ Barrett Garcia, Treasurer
Friends of Rocky Chavez

REDACTED

Re: Warning Letter FPPC No. 08/0713; Rocky Chavez and Friends of Rocky Chavez

Dear Mr. Chavez:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act").¹ This letter is in response to a referral from your filing officer, the City Clerk of the City of Oceanside, alleging you violated the Act during your campaign for Mayor of Oceanside in the 2008 election. Specifically, the referral alleged you improperly re-designated and used your candidate controlled committee formed for your 2004 campaign for Mayor of Oceanside for your 2008 campaign for Mayor of Oceanside.

The FPPC has completed its investigation of the facts in this case. Section 89519 provides that funds under the control of a defeated candidate become surplus at the end of the postelection reporting period following the election. Specifically, we found that the committee and campaign bank account you used for your 2008 campaign for Mayor was formed for your 2004 campaign for Mayor, and that the funds held by the committee became "surplus campaign funds" on December 31, 2004.

The Act provides in Section 85201 and Regulation 18521, subdivision (a) that a candidate shall establish a separate controlled committee and bank account for each specific

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

office. Regulation 18521, subdivision (b) provides that under certain conditions, a candidate² controlled committee and campaign bank account established for a specific office may be re-designated for a future office. One of the conditions that must be met to be able to re-designate a committee and bank account is that the funds held by the committee are not considered "surplus campaign funds." Because the funds held by your 2004 Mayor committee were "surplus campaign funds," the committee was not eligible to be re-designated and used for a future election.

Your actions violated the Act because you did not form a new committee and open a new campaign bank account for your campaign for Mayor in the 2008 election as required by Section 85201 and Regulation 18521. Though your actions violated the Act, we have decided to close this case with a warning letter, because the amount of the funds considered surplus was minimal, and had you re-designated the 2004 Mayor committee before December 31, 2004, you would have been able to use the committee and the campaign bank account for your 2008 campaign.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an FPPC case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the Date of this letter. Upon this notification, the FPPC will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the FPPC's website ten (10) days from the date of this letter.

Please feel free to contact me with any questions you may have regarding this letter.

Sincerely,

REDACTED

Grant Beauchamp
Program Specialist
Enforcement Division

² A candidate other than a candidate for elective state office